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ABSTRACT

The present state of American Indian child welfare was investigated via: a review of published and unpublished literature; an analysis of legislation, regulations, and other documents dealing with Federal and State Indian child welfare, field interviews at 19 sites; case studies of programs; and a mail survey focusing on graduate social work programs. Major barriers to the full provision of Indian child welfare services were identified as failure to: understand tribal cultures; recognize the special legal and cultural factors that arise in providing services to Indians; involve Indians in child welfare matters as foster and adoptive parents, as administrators and staff, or as advisory board members; foster programs operated by tribal governments. Major recommendations were: the Federal government should support the operation of child welfare programs by tribal governments and Indian organizations (capacity building activities, tribal courts/codes, and direct or state-Federal-tribal funding); adoptive and foster care placements of Indian children should include increased involvement by tribal governments and Indian-run agencies and increased efforts to place children in Indian homes; child welfare services should respect and consider the cultural background of both the child and parent; more preventive and supportive services are needed; and the Bureau of Indian Affairs' boarding schools need to include more child welfare services. (JC)

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INDIAN CHILD WELFARE:

A State-of-the-Field Study.

Summary of Findings and Discussion of Policy Implications

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INDIAN CHILD WELFARE:
A STATE-OF-THE-FIELD STUDY

Summary of Findings and Discussion of Policy Implications

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Office of Human Development . Office of Child Development
Children's Bureau

DHEW Publication No. (OHD) 76-30096

F O R E W O R D

This "Summary of Findings and Discussion of Policy Implications" outlines the major findings and recommendations of the "Indian Child Welfare: State of the Field Survey."

The Survey, conducted for the Children's Bureau under contract by the Center for Social Research and Development, Denver Research Institute, University of Denver, was an extensive report on the needs and practices of child welfare services delivered to American Indian children and their families on and off the reservation.

The Survey included on site examination of the delivery of services at seven off reservation sites and at ten reservations, with a supporting survey of formalized policies in 21 States with Native American populations. The project has also identified key elements of social work education and practice provided to American Indians, as well as recommendations for improving their educational and employment opportunities in social work fields.

It is clear from this report, as well as others which preceded it, that American Indian children and their families are not receiving the kind of support and services which would enable them to maintain homes, families and communities in the face of economic, social and personal needs and crises which beset families across the United States. The needs are vast and urgent. We believe that this report provides an analysis specific enough to stimulate not only public awareness of the problem, but interest in supporting and promoting specific actions to improve child welfare services to Native Americans.

We acknowledge, with appreciation, the generous assistance and cooperation extended to the Denver Research Institute by members of the American Indian communities and tribes across the country, by State agencies, the Office of Native American Programs, the Bureau of Indian Affairs, the Indian Health Service and the Social and Rehabilitation Service.

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INTRODUCTION

This report summarizes the findings and analyzes the policy implications of a research project conducted by the Center for Social Research and Development, Denver Research Institute, University of Denver. The project included the following elements:

1. A review of published and unpublished literature about Indian child welfare

2. An analysis of legislation, regulations, and other documents which deal with the policies and activities of federal and state agencies active in Indian child welfare

3. Mail surveys in twenty-two states with substantial Indian populations. The surveys included state agencies, private agencies, area offices of the Bureau of Indian Affairs (BIA) and the Indian Health Service (IHS), a sample of tribes and inter-tribal organizations, and a sample of BIA boarding schools

4. Field interviews at nineteen sites, including twelve reservation sites, four urban Indian communities, one terminated tribe, and one site each in Oklahoma and Alaska. At each site there was an effort to interview all organizations involved in Indian child welfare matters, including service-providing agencies, tribal councils, courts, police, legal services, and urban schools

5. Case studies of programs of particular significance based on documents and interviews

6. A mail survey focusing on graduate social work programs. The survey included graduate schools of social work, Indian faculty and students at these schools, and Indian graduates of these schools

Although the research was national in scope and the nineteen field research sites included a variety of communities, the sites were not chosen randomly and did not constitute a representative sample. The over two hundred reservations and scores of off-reservation Indian communities have diverse

histories, cultures, social and political organizations, and legal statuses. Thus, the reader must be cautious in applying any generalizations to a specific state or community which was not included in the study.*

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*The complete findings of this project are reported in three documents: Center for Social Research and Development, Indian Child Welfare: A State-of-the-Field Study (Denver: University of Denver, July 1976); Ellen L. Slaughter, Indian Child Welfare: A Review of the Literature (Denver: Center for Social Research and Development, Denver Research Institute, University of Denver, January 1976); and John H. Compton, Social Work Education for American Indians (Denver: Center for Social Research and Development, Denver Research Institute, University of Denver, forthcoming). ~~The first document can be obtained from the National Center for Child Advocacy, Children's Bureau, Office of Child Development, 400 Sixth Street, S.W., Washington, D.C. 20013 and from CSRD. The second and third~~ documents can be obtained from CSRD. all three

THE STATE OF THE FIELD IN INDIAN CHILD WELFARE:
A SUMMARY

The Delivery of Child Welfare Services to Indians: Responsibilities and Barriers

There are four major types of agencies which have responsibilities for providing child welfare services to Indians. These agencies include: state-county social service systems; the federal service system (the Bureau of Indian Affairs and the Indian Health Service); Indian-run agencies (tribal governments or other organizations); and private non-Indian agencies. The state-county social service systems and the federal service system are by far the most active in providing child welfare and other social services to Indians. Tribal and other Indian-run social service agencies are relatively new. Furthermore, although they operate Head Start and Comprehensive Employment and Training Act (CETA) programs with direct federal funding, most tribes must rely on contracts with state-county social service systems or with the BIA for support of service programs in the traditional child welfare areas of foster care, adoptions, day care, protective services, and emergency services. Most private social service agencies, except for programs such as the Mormon Church's Indian Student Placement Program, provide few services to Indian children and their families.

The relationship between the state-county systems and the BIA-IHS system varies widely from site to site and from state to state and is exceedingly complex. Much, but not all, of the variation can be explained by the differing legal statuses of different Indian communities. A thorough understanding of the unique and complex legal position of tribes is essential to an appreciation of the major issues in the field of Indian child welfare.

Among minority groups in the United States, Indian tribes are unique in two respects. First, the Constitution, federal legislation, and numerous court decisions all affirm that federally recognized Indian tribes possess substantial powers of self-government and that Indians on reservations shall look to tribal governments for the exercise of many of the functions which are provided elsewhere by state governments. Except where Congress has acted to limit tribal powers and to permit states to assert their jurisdiction and authority, such as under Public Law (PL) 83-280, states have little or no authority to enforce their laws on Indian reservations. Recent federal policy has explicitly sought to strengthen tribal governments in the name of Indian self-determination.

Second, the Indian Health Service and the Bureau of Indian Affairs have a specific mandate to provide certain services to federally recognized Indian tribes, including Alaska Natives. Indian reservation lands are held in trust for tribes by the federal government and thus are exempt from state and local property taxes, and management of these lands is the responsibility of the BIA. The legal and historical facts of tribal self-government and federal trust responsibility are unique to federally recognized Indian tribes and have a pervasive influence on the delivery of social services, as well as on many other matters involving Indians.

State Governments and Indian Child Welfare. The Social Security Act provides for a variety of financial assistance and social services programs, most of which are to be administered by state governments and their local political instruments, county governments. Relevant case law clearly indicates that each state must provide these services to reservation Indians on the same basis as to its other residents. However, the Social Security Act does not explain how tribal governments are to fit into the system of federal-state programs, and there are serious legal and jurisdictional barriers to the delivery of services by state-county systems on reservations where tribal powers of self-government have not been abridged by PL 280.

For example, on non-PL 280 reservations tribal courts have jurisdiction over such child welfare matters as foster care placements and adoptions, child abuse and neglect, and juvenile offenses. Many tribes have not adopted juvenile codes and have been slow to exercise jurisdiction in these matters. Nonetheless, SRS program instructions indicate clearly that state agencies must work with tribal courts and recognize tribal court orders in these matters. However, CSRD's survey showed that few county welfare offices routinely notified tribal courts of cases involving reservation children. Although a thorough investigation of individual cases would be required to determine how reservation cases are being handled outside the tribal court system, it seems likely that many counties are simply not providing court-related child welfare services to reservation Indians unless these Indians go off reservations and present themselves to county offices.

The recognition of tribal court orders by state courts and by state institutions is a related jurisdictional issue. Two state courts included in CSRD's survey indicated that they would not recognize tribal court orders, and three stated that they recognized tribal court orders only in certain circumstances.

A second problem arises over licensing. In order to be eligible for federal reimbursements, Aid to Families with Dependent Children-Foster Care (AFDC-FC) homes and day care facilities must be licensed or approved. Prior to the publishing of Title XX regulations, these facilities had to be licensed or approved by state governments. However, since state governments do not have the power to enforce licensing procedures on non-PL 280 reservations, many facilities were simply not licensed, with the result that these services were not available on reservations. Because of this problem, the Region VIII Office of the Social and Rehabilitation Service (SRS) and the state of North Dakota worked out an arrangement between 1972 and 1974 which allowed a BIA agency superintendent or tribe to provide information so that the state could approve facilities. The Title XX regulations have attempted to deal with the problem by stating that facilities are eligible for federal financial participation if they are licensed by the state or approved by tribal governments. However, CSRD was unable to determine whether any tribe outside North Dakota has yet established procedures for approving facilities and notifying relevant state officials so that federal-state funds can be made available to them.

A third difficulty involves state contracting with tribal governments. Some state governments have been reluctant to contract with tribal governments for the provision of services because they lack the power to take tribal governments to court to recover funds which might be spent outside the terms of a contract or without proper documentation.

An additional problem related to the lack of state jurisdiction arises over who will pay the 25 percent local share necessary to earn the 75 percent federal share for services under Title XX. State governments do not have the power to tax Indians' real or personal property on reservations, nor can states tax Indians' income earned on reservations. Accordingly, states have often argued that they cannot afford to pay the local share for services to reservation Indians. Congress has repeatedly been asked to amend the Social Security Act to provide for 100 percent federal funding of such services, but with one partial exception (the Navajo-Hopi Rehabilitation Act of 1950) it has declined to act. In many cases tribes have had to put up the 25 percent local share from their own funds in order to operate day care or other programs with Title XX funds. For example, the Navajo Nation not only had to pay the 25 percent local share, but it also had to pay the state of Arizona a fee to cover the administrative costs of handling the contract.

Legal and jurisdictional problems often contribute to another barrier to the effective delivery of child welfare services to Indians by state-county systems. Many respondents to CSRD's survey reported that interagency relationships are often in need of improvement. At some sites county officials have developed good working relationships with tribal and BIA officials. For example, the willingness of the county to open a suboffice on the Makah Reservation in Washington and its willingness to hire Indian staff to operate it led to a good relationship. However, at other reservations relationships between counties and tribes are strained because tribes feel that county social workers have been much too quick to remove Indian children from their families and to place them in off-reservation, non-Indian foster and adoptive homes. Numerous tribal councils have passed resolutions condemning this practice.

A third barrier to the effective delivery of state-county child welfare services to Indians occurs because of the reluctance of many states to take into account the special problems of providing services to Indians. The existence of these problems was affirmed by 65.6 percent of the respondents to field interviews and mail questionnaires, who cited such specific problems as cultural factors, communications problems, a reluctance on the part of Indians to use the service system, the extended family system, and different child-rearing practices.

Respondents also indicated that they favored such special provisions as recruiting Indian adoptive and foster parents, notifying tribal officials about placements, employing special staff or outreach workers for Indian child welfare cases, and adopting special licensing standards for Indian foster homes. SRS has formally recognized the necessity for some of these special provisions for Indian child welfare cases. A 1974 program instruction stated that "the present system of foster care, adoption, and day care for Indian children living on reservations" was defeating the goals of the Social Security Act (i.e., to strengthen family life and to permit children to remain in their homes). Consequently, it stated, "if different standards would be more likely to accomplish the goals of the Act, they are permissible in order to remove the hardship, and in extreme cases may be required."[1]

In spite of this instruction, research data show that only a small minority of counties at the survey sites have adopted special standards, hired special staff for Indian cases, or routinely followed the special procedures listed above.

Of the seventeen states responding to the mail survey, only four included special materials about Indian child welfare in their state plans or manuals, and only the state of Washington has developed a number of broad policies which define how Indian child welfare matters should be handled. Several responding states, including some with substantial Indian populations, stated that since they provide the same services to both Indians and non-Indians, they could make no special provision for services to Indians. Similarly, state institutions reported a lack of attention to the special problems involved in serving Indian child welfare needs.

A fourth barrier to the effective delivery of child welfare services to Indians is the lack of Indian involvement in child welfare matters, which takes several forms, including a lack of Indian staff, a lack of Indian representation on advisory boards, a lack of other channels for input from tribes and other Indian organizations, and a lack of Indian foster and adoptive parents. Several respondents reported recent progress in one or more of these areas. Over a third of the agency respondents who felt that child welfare services had improved over the last five years cited increased Indian involvement as a reason. However, there is still much room for improvement, since the most widely suggested area for future improvement was increased involvement by tribes or other Indian organizations in child welfare matters.

Many sites listed the distance between county welfare offices and reservations as another major barrier to the provision of services. Only three of the twelve reservation sites studied had county offices, while two additional sites had offices within one mile of reservation boundaries. At the other seven sites, seventy to one hundred miles of travel might be necessary in order to visit county welfare offices.

Boundary lines present another problem. Many reservations include portions of several counties, and some reservations, including the Navajo Nation and the Standing Rock Reservation, overlap with more than one state. These boundary lines often make it difficult for tribal officials to work with state and county officials to plan the delivery of services to reservations.

Finally, it must be recognized that planning for and provision of services are hampered at many sites by mistrust, prejudice, and communications problems. Although these factors are difficult to measure objectively, many respondents suggested that they were problems. Indians are a large minority group

in many areas, and prejudice and mistrust in these areas are still very strong. It should be remembered that wars between Indians and whites ended less than ninety years ago, and as recently as the 1950s, federal policy explicitly endorsed the goals of assimilation and termination of federal responsibilities to Indians.

The BIA and Indian Child Welfare. It is BIA policy to provide social services to federal reservations and to nonreservation areas of Oklahoma and Alaska on a residual basis--that is, to provide services only when they are not available from state-county systems. There is a strong basis in SRS policy and in applicable case law for arguing that the legal and jurisdictional barriers described above do not relieve states of the responsibility to provide services to reservation Indians on an equal basis. However, congressional testimony by BIA officials makes it clear that the BIA is willing to step forward to provide needed services when states are unable or reluctant to provide them because of jurisdictional or financial reasons.[2] Since some states provide little or no service on reservations, the BIA is often in the position of being the primary p provider of child welfare services.

However, there are several barriers to the provision of adequate services by the BIA. Perhaps the most difficult barrier to define and measure is the legacy of outgrown BIA policies. As recently as 1975, the U.S. Civil Rights Commission characterized Indian tribes as colonies and identified the BIA as the chief colonialist agency.[3] For years, the BIA has exercised an extremely high degree of control over the affairs of reservation Indians. For example, many resolutions and ordinances passed by tribal councils do not take effect until approved by the Secretary of the Interior. Furthermore, for many years BIA policies explicitly endorsed assimilation of Indians into the mainstream of American life. One could interpret the policy of providing residual services as supporting assimilation rather than self-determination. The statement of this policy in the BIA Manual reads:

> It is the position of the Bureau that the general welfare of the Indian child is be promoted when the appropriate State agency provides necessary social services to Indian children on the same basis as to others. . . . Tribal welfare programs are an important resource for Indian children.[4]

The policy of providing residual services is not changing, but the phrasing of this policy is being changed. The sentence referring to tribal programs was added in 1974, and proposed regulations published in November 1975 eliminated the phrasing "provides . . . services . . . on the same basis."[5] Presumably when final regulations are published the BIA Manual will also be changed.

A second barrier to the effective delivery of child welfare services to Indians is the resistance of some BIA social workers to the concept that there are significant differences between providing services to Indians and providing services to non-Indians. One high-ranking BIA official asserted that there is a "lack of recognition that many problems they [Indians] experience are common human problems. When recognition is established of common human problems energy can be expended more efficiently on uniquely Indian aspects." In response to a question which asked what special problems were involved in serving Indians, this official went so far as to say that the main problem was "the feeling of many Indians that they are different because they are Indians."

Closely related to this attitude is the fact that many BIA social workers are non-Indians. The Indian Reorganization Act of 1934 sought to reverse the long-standing domination of the BIA by non-Indian personnel by providing for Indian preference in hiring and promotions within the bureau. However, this legislation has not been enforced. In 1974, the Supreme Court ruled that Indian preference is constitutional, but efforts to implement Indian preference have still lagged. Five of the BIA area social service offices have no Indians in professional positions, and two area social service offices have no Indian staff. The ten area offices which responded to CSRD's survey indicated that there were only two Indian chiefs of area social services and two Indian assistant area social workers.

BIA social services are limited by two more easily measurable factors, limited funds and limited authority. Since the bulk of BIA social service funds are committed to financial assistance, little remains to finance service programs. BIA funds do not permit support for day care programs. In addition, only two of the seven BIA agencies responding to the survey reported providing homemaker services, and only one reported providing group care services. In the two BIA areas which cover the state of Oklahoma, in the area covering the Pacific Northwest, and in the area covering California there is almost no funding for services, and the activities of BIA social workers are limited primarily

to handling general assistance and referrals to BIA boarding schools. These states generally have full jurisdiction over child welfare and other matters. Although the BIA does not provide services in urban areas, field research in Phoenix and to a lesser extent in other cities indicated that Indians may return to reservations to get services, either on their own initiative or after referral by state-county offices.

BIA activities in adoption cases are restricted by the fact that the BIA is not empowered to accept the custody of children. Thus, custody must be assumed by either a tribal or state court, or it must be transferred to a state or private agency licensed by that state. Many tribes do not have juvenile codes or, if they have a code, they are reluctant to sever parental rights. However, non-PL 280 states cannot legally accept custody for a reservation child unless they go through a tribal court. Furthermore, some states refuse to recognize adoptions made through tribal courts. On non-PL 280 reservations a legally valid adoption can be difficult to arrange.

The Indian Health Service and Child Welfare Services. The mandate of the Indian Health Service is to provide comprehensive health care and preventive health services. IHS does have a small and growing mental health program, and there are medical social workers at many IHS service units. Thus, IHS may become involved in child welfare matters, although at present its primary responsibility does not extend to the provision of these services. Field research indicated that IHS is most likely to become involved in services to unwed mothers, child abuse and neglect, emergency services, and protective services. Usually IHS involvement ends with a referral to the BIA or to the state-county system once it has dealt with the medical aspects of cases.

For the most part, the responsibility of the IHS, like the BIA, is to serve members of federally recognized tribes on or near federal reservations and in the nonreservation states of Alaska and Oklahoma. IHS has been somewhat more active than the BIA in off-reservation areas, because unlike the BIA, IHS has received a number of special congressional appropriations to conduct surveys of health needs and to provide some limited services in certain cities located in off-reservation areas. In addition, IHS operates several hospitals which are located in major cities and serve some off-reservation as well as reservation Indians.

Barriers to the availability of these limited IHS child welfare services are similar to the barriers to the delivery of BIA services. Many IHS staff members are non-Indians, and respondents to CSRD's survey reported that very few Indians were working in the mental health or social service units at the eleven field research sites with IHS facilities. Distance is another problem at some reservations, since several small reservations are often served by one service unit. Finally, IHS respondents reported a need for additional staff training in child welfare matters.

Tribal Programs and Child Welfare Services. All of the tribal social service programs at the field sites were less than ten years old, and many were quite new. Tribes have begun to operate large numbers of programs under federal grants and contracts only since the mid-1960s, and child welfare programs have usually not been the first programs that tribes have operated for two reasons. First, some tribal councils have put a higher priority on other matters, such as jobs and economic development. Second, there are several barriers to tribal contracting for child welfare services.

The major barrier to tribal-BIA contracting for child welfare programs is the lack of funds. The Indian Self-Determination Act of 1975 (PL 93-638) requires that BIA either write contracts with tribes when tribes so request or else make a determination that tribes do not have the capability to operate the programs in question. If the BIA refuses to contract, it must provide capacity-building funds to equip tribes to contract in the near future. However, BIA funds for this purpose are very limited. In FY 1976 only $10.7 million was available for this purpose for all tribes for all BIA program areas, including education, law and order, resource management, and economic development.[6]

State Title XX funds are another possible resource for tribal child welfare programs, but many states are reluctant to provide the 25 percent local share for such programs. Furthermore, there are many difficulties involved in state-tribal contracting which have convinced the Inter-Tribal Council of Arizona and possibly tribes in other states that state-tribal contracting is not desirable. Several of the difficulties which arise when tribes contract with states include: the lack of flexibility in state plans to permit tribes to provide those services which are needed in reservation communities; the danger of compromising tribal sovereignty and the historical federal-tribal relationship; the difficulty of devising procedures for dealing with audit exceptions, since normal means by which states may recover

funds improperly spent cannot be used when the contractor is a tribal government; the possibility that states may require that state courts rather than tribal courts handle cases being served under a contract; and the possibility that states may attempt to assess the operation of tribal programs and dictate how such programs should be run.

A second major barrier to tribal operation of child welfare and child welfare-related programs is the lack of funds for the development of tribal capabilities to plan, manage, and evaluate these programs. Since tribes have not managed child welfare or other social service programs until recently, a period of planning and program development is necessary. Purchase-of-service contracts with state Title XX agencies rarely allow for such a period before services must be delivered, even though state-tribal contracting raises many difficult legal and administrative problems. BIA social service funds are also tied to the delivery of services and allow little margin for tribes to plan programs and train tribal employees in operating them. Federal research and demonstration funds might be a way for tribes to gain funding for a period of program planning and development, but in the past, these funds have generally been tied to the provision of services. If a tribe has made limited progress in developing its program or working out arrangements to contract with a state or the BIA, then the program ends when the three years of research and demonstration funding expire.

Private Indian-Run Agencies. Private Indian-run child welfare agencies are even newer and less common than tribal child welfare programs. In most large cities there are Indian centers, which act as social centers for the local Indian population and may also operate a variety of programs with funding from federal or state sources. These Indian centers generally provide information and referral services plus some counseling, but they often lack professionally trained social work staff and rarely have a separate program of child welfare services.

CSRD field research uncovered three exceptions to this pattern. The Seattle Indian Center, which operated a residential program called "Alternatives to Foster Care" for three years with support from an Office of Child Development (OCD) research and demonstration grant, succeeded in becoming licensed as a child-placing agency. However, when research and demonstration funds ran out, no alternative funds could be located, and the project is currently inoperative. In Chicago the Native American Committee (NAC) is using Office of Native American Programs (ONAP) funds to employ a para-professional worker who is currently being trained by

another private agency. NAC plans to recruit Indian foster and adoptive parents and possibly provide other direct child welfare services. A third exception is the Native American Family and Children's Program of Minneapolis, an independent project which was developed by community nonprofessionals with very little outside funding. During FY 1976 the project was supported by the Minnesota Chippewa tribes under a contract with the Bureau of Indian Affairs. The project has been so successful in recruiting Indian foster homes and in playing a constructive role in working with state courts in child welfare matters that the state has agreed to license the project as a child-placement agency if funding can be arranged to hire a professional social worker. No such funds have yet been located.

On reservations tribes themselves often provide needed services. However, there are very few other examples of Indian-run agencies which provide child welfare services. The Inter-Tribal Council of Nevada provides social services, including child welfare services, under a BIA contract, and the Thunderbird Ranch, which is located near the Menominee Reservation, is an independent Indian-run group home for young people.

The major barriers to the development of private, Indian-run child welfare agencies are the difficulty of obtaining permanent funding for such agencies, the need for careful planning and development of agency programs, and the shortage of professionally trained Indian social workers to staff such agencies. Funding is available for Indian-run information and referral activities, and most ONAP-funded urban Indian centers provide referral services, some of which involve child welfare cases. However, the experiences of the Native American Family and Children's Program and the Seattle Indian Center demonstrate the need for long-term funding for urban Indian child welfare programs.

There are a few examples of separate programs for Indians which are staffed by Indians and which respond in some fashion to the Indian community but are contained within larger agencies. The Indian Adoption Program of the Jewish Family and Children's Service of Phoenix, which is supported by a BIA contract, is one example. Other examples are the Native American Outpost of the Edgewater-Uptown Mental Health Center in Chicago and the Indian division of the Santa Clara County Department of Welfare in San Jose, California.

Private Non-Indian Agencies. With a few outstanding exceptions, private non-Indian agencies lack special child welfare programs for Indians and serve Indians as part of the general population.

The most significant exception is the Indian Student Placement Program of the Church of Jesus Christ of Latter-day Saints (L.D.S.), which places over twenty-three hundred Indian children each year with non-Indian foster parents and is supported entirely by private funds. The foster parents are church members, and one of the major foci of the program is the religious and spiritual education of the children. The program's other objective is to provide Indian children with a public school education in off-reservation communities. While there has been no systemmatic evaluation of the program's efforts or its methods for dealing with the potential conflicts between the family patterns and social practices of Anglo foster families and the quite different reservation Indian family structures and cultural patterns, evidence from two theses does suggest that these conflicts exist and that they may have serious consequences for the children involved.[7] The Mormons also operate a variety of other social service programs through local churches, but L.D.S. officials declined to participate in our mail survey or to provide information about these services.

Another project operated by a private non-Indian agency deserves special mention. Since 1957, the BIA has contracted with the Child Welfare League of America to operate a clearinghouse for the interstate placement of Indian children with adoptive families. The Adoption Resource Exchange of North America (ARENA)* originally was designed specifically to place Indian children with non-Indian parents. Recently, these policies have changed to favor placement of Indian children with Indian parents whenever possible. However, the project has continued to import large numbers of Canadian Indian children into the U.S., mostly for placement with non-Indian families. Also, there are strong indications that many of the adoptive families which are registered with ARENA as being Indian in fact have only a very small quantum of Indian blood. ARENA does not attempt to determine whether these families normally identify themselves as Indians and whether they maintain ties with their tribes.

Tribal Cultures and Child Welfare Services

In theory, the social work profession recognizes the importance of respecting individual differences, including

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*"ARENA" has been the project's name since 1967.

those which arise from an individual's cultural heritage, and the Supreme Court explicitly affirmed in King v. Smith that programs under the Social Security Act cannot be used to enforce middle-class standards or morality. In practice, however, the delivery of child welfare services often falls short of these lofty theoretical standards.

Tribal cultures differ from Anglo culture in several respects, many of which have a very important impact on child welfare service provision. Respondents to field interviews and mail surveys indicated that proper understanding and consideration of cultural differences between Indians and non-Indians are essential for providing services, but few respondents articulated how specific cultural factors might impact on child welfare services. Furthermore, the curricula at graduate schools of social work--even at the nine schools which have special programs for recruiting Indian students and Indian faculty--contain little information on the implications of cultural differences for service planning and delivery.[8]

Although this project did not study the child-rearing practices and family structures of tribal cultures and their implications for child welfare services, some observations can be made. Since there is no single "Indian culture," any generalizations on the subject of the impact of tribal culture on child welfare services must be regarded with great caution. Furthermore, tribal child-rearing practices and family structures are changing, just as middle-class Anglo-American patterns are changing. In some cases these changes may be making non-Indian and Indian families more similar. But in other areas there continue to be major differences between tribal and Anglo-American child-rearing patterns and family structures.

The "extended family" is a trait common to most Indian tribes, although its strength may vary from tribe to tribe or even within reservation communities. In some tribes, clans are strong, while in others they are nonexistent. Some reservation communities are very tightly knit and provide a support system for parents in the raising of children, and in many tribes grandparents have a major role in child raising. However, in other cases the extended family system has broken down to the point where grandparents have child-raising responsibilities with much less support than used to be provided by biological parents and other members of the extended family.

Therefore, non-Indian social service providers often find it difficult to identify who is responsible for an Indian child and are frustrated by the mobility of a child, who may be the responsibility of different adults at different times. One respondent noted that within one tribal family system the children have a sense of family even if their parents are not present. However, if social workers fail to understand this system or insist on enforcing middle-class Anglo standards, they may intervene when Indians feel there is no reason for intervention.

There are also differences in parental roles. Non-Indian social workers may expect mothers and fathers to be in control of their children and may become concerned if they feel that Indians have no control over their children. Many respondents to CSRD's survey reflected this belief by saying that they felt that parental "permissiveness" was a problem with Indian children. However, many Indian families feel that children are competent to care for themselves at earlier ages than non-Indian families, and for this reason children are expected to make decisions about their own lives. Thus, older children are often left to care for younger children, which conflicts with the law in some states (Colorado) where no child under age twelve can be left unsupervised. If this type of behavior were reported by a social worker who was either ignorant of tribal culture or who felt forced to act by the codes of the system, then an Indian child could be regarded officially as being "neglected."

In most tribes, no stigma is attached to illegitimacy. Children of unwed parents may be cared for by their parents or by the extended family, and often no distinction is made between children born in wedlock and out of wedlock. Thus, family planning programs and counseling services which assume that premarital pregnancies are problem situations may be wrong and may create as many problems as they solve.

Finally, several authors have argued that the concept of social work intervention is itself antithetical to the Indian value of noninterference. Others state that techniques such as confrontation, which facilitates the display of emotions, or nondirective techniques are inconsistent with Indian cultural patterns and may be ineffective or counterproductive in dealing with Indian problems. Some authors have gone so far as to assert that social work is a "white man's technology." Gordon Keller has argued that since social workers are "part of the Anglo-American social welfare system, they become change agents in an acculturation process."[9]

The point to be recognized from this discussion is that if child welfare workers who deal with Indians take actions that are inconsistent with tribal cultures, they may alienate Indian children from their tribal backgrounds and weaken family structures. On the other hand, social workers who are sensitive and sympathetic to changing tribal cultures and who also understand non-Indian norms and the social welfare system can play a constructive role as intermediaries. They can work with individual families to help strengthen tribal cultural patterns so that they can meet the needs which Indian families and children face, and they can work to change features of the social welfare system which are incompatible with tribal cultures. If these social workers are Indians and members of the tribal community, they may be able to perform this intermediary function more readily and effectively.

Adoptive and Foster Care Placements of Indian Children

Child welfare services have been used, and are still being used in some cases, to separate Indian children from their families, to place these children in non-Indian homes, and to enforce non-Indian norms and patterns. Although no statistically reliable national study of the volume of out-of-home placements of Indian children has been completed, all available evidence indicates that Indian children have been taken from their families more often than non-Indian children. Many tribes and the National Congress of American Indians have passed resolutions condemning off-reservation placements, and Senate hearings held in 1974 helped to publicize the opposition to these placements.

Few statistics are available to measure whether this opposition has resulted in a reduction of out-of-home placements. On some reservations, county welfare offices have stopped making any off-reservation placements, and some tribes have begun to take over the operation of child welfare services. For example, the state of Washington has adopted regulations which require social workers to place Indian children with families of their own tribe or a related tribe when possible and to notify tribes of placements. In many places, tribes, Indian-run organizations, county offices, and the BIA have made special efforts to recruit Indian foster and adoptive parents. However, over twenty-three hundred children are placed in non-Indian foster homes every school year by the Indian Student Placement Program of the Church of Jesus Christ of Latter-day Saints.[10]

The Adoption Resource Exchange of North America continues to place unknown numbers of Canadian Indian children with non-Indian families, and many of the adoptive families which ARENA counts as Indian families can make little claim to Indian blood. In short, although there are indications that the volume of out-of-home placements of Indian children may be dropping and that more placements are being made within Indian communities, it is clear that child welfare services are still being used to take Indian children from their homes and to break their links with their tribal cultures.

In the past some agencies assumed that capable foster and adoptive parents could not be found within Indian communities, particularly on reservations. This assumption has now been thoroughly disproven. Programs such as the Indian Adoption Program of the Jewish Family and Children's Service of Phoenix, the Native American Family and Children's Program in Minneapolis, and some county, BIA, and tribal agencies have demonstrated that capable Indian foster and adoptive parents can be recruited by diligent work at the community level.

However, CSRD's research yielded evidence that licensing and recruiting standards for foster homes are still a problem in some areas. BIA regulations and a recent SRS program instruction recognize that the physical standards used by states to approve foster care homes are middle class, which often means excluding Indians who live both on and off reservations.[11] Most of the Chicago household respondents indicated that they felt that they did not stand a chance of being accepted as foster or adoptive parents. Although the BIA Manual permits agencies to depart from state standards in approving foster homes, of the five BIA agency offices surveyed and involved in foster care, only one indicated that it used special standards. Although a SRS program instruction encourages states to adopt special standards for reservations and indicates that such standards may be required in some circumstances, only three of seventeen state respondents reported that there are procedures for modifying standards for Indian foster homes.[12] Two county offices visited as part of the field research reported that they adapt standards informally since their states have no such procedures.

Closely related is the fact that Indian families may not have the financial resources to take another child into their homes. Making AFDC-FC payments available to relatives caring for a child would help to solve this problem since

AFDC-FC payments are generally considerably higher than the regular AFDC allowance for an additional child. A 1974 SRS program instruction noted that several court decisions supported this practice when relatives were licensed or approved as foster parents and had no legal responsibility for caring for a child.[13] However, only two county offices interviewed indicated that AFDC-FC payments to relatives were permitted.

Unmet Needs

The most pressing needs of Indian families and children are for more jobs, more firm control of Indian lands and resources by Indians, and respect for the distinctive ways of life of Indians and Alaska Natives by all Americans. Unemployment and poverty are the major problems that Indian families face in raising their children. Over the last three hundred years Indians have been progressively displaced from their best lands, which were formerly the source of their livelihood. Even the placing of tribes on reservations did not stop this policy, since on many reservations the government made it possible for the best lands to be homesteaded, sold, or leased to non-Indians.

Unemployment rates on many reservations and in many non-reservation Indian communities are disastrously high. According to a Department of Commerce directory of reservations, unemployment rates of 40 to 75 percent are not at all uncommon.[14] The 1970 census (which has been widely criticized for undercounting Indians) notes that the median income of Indian families is $5,832, with 33.3 percent of all Indian families living below the poverty level.[15] Over 40 percent of all Indians over twenty-five have an elementary school education or less, and only 3.8 percent have completed four years of college.[16] According to the IHS, "The health status of Indians and Alaska Natives . . . still lags 20-25 years behind that of the general population."[17] Thus, it is clear that economic problems are really the major source of difficulty for Indian families.

However, there are also problems related to child welfare. Within the field of child welfare services, the most pressing need is for more involvement by tribal governments and other Indian organizations in the planning and delivery of services. Since child welfare services have traditionally been associated with the removal of Indian children from their homes and tribes, the imposition of more child welfare services by non-Indians would not be an effective solution to Indian problems.

Instead, existing Indian-run social services should be expanded and new programs to meet the needs of Indians as defined by Indians themselves should be developed. In addition, there may be a need for more and better preventive and supportive services. Improvements in (or alternatives to) the system of BIA boarding schools and improved adoption and foster care services also seem to be necessary.

The Need for Preventive and Supportive Services. Many respondents agreed that there is simply not enough for children to do, whether they live on or off reservations. With extra time on their hands, many children, especially adolescents, get into some kind of trouble. Many sites reported that adolescents fell into patterns of uncontrollable behavior. This behavior was usually nonviolent, but it did involve glue sniffing, alcoholism, and general rowdiness. In many Indian communities this type of behavior is also encouraged by poverty, isolation, alcoholism, and, in many cases, the weakening of traditional mechanisms of social control.

Where the extended family and other social institutions are strong, problems can usually be handled, but when the extended family and other traditional social institutions have been weakened or have broken down, the problems become particularly acute. For example, household interviews on the Fort Berthold Reservation in North Dakota found most behavioral problems among children in new public housing projects, which are similar to housing projects on many other reservations. Although most residents were accustomed to living in the country where there was plenty of room, the housing projects were tightly clustered. Many people who were displaced from their home communities by the building of a dam in the 1950s were also living in the projects. Since people in these projects lived next door to families from other communities rather than their extended families, traditional systems of family support and control of children by the extended family functioned less effectively. Household interviews in Chicago revealed a similar situation. It seems that supporting social and family structures are hardly ever present for Indians who live in cities.

Alcoholism among parents is also a cause of many child-related problems. When parents are drinking, children may be left alone, in some cases without adequate supervision. Alcoholism is also a factor in family tensions and break-downs.

On reservations, in nonreservation areas, and in cities the most widely mentioned need was for a larger number of worthwhile activities. Steady jobs, vocational training, the construction of more recreational facilities, the organization of programs like Boy Scouts and 4-H, and more cultural programs (especially those which involve both older members of the community and young children and adolescents) are all needed. Services such as those provided by the traditional urban settlement house would also be useful in many Indian communities.

The second most widely mentioned need was for programs to help people deal with family tensions and family disorganization. Some respondents expressed the need for services such as counseling, family therapy, and self-help groups for families. Since many traditional social work and psychiatric techniques may be incompatible with tribal cultures, new techniques for dealing with these problems must be developed by Indian professionals and by sensitive Indian community leaders.

On reservations, many agency personnel reported a need for more group and foster homes, emergency shelter care, and other facilities for delinquents and predelinquents. Because reservations only rarely have adequate emergency facilities for juveniles, children are often placed in jails, many of which are old and overcrowded, in a group home, if one is available, or they are released. Detaining juveniles in group homes on an emergency basis can disrupt the services being offered to other residents of the group home. Foster homes for adolescents are also not generally available. Finally, many sites mentioned the need for facilities to provide temporary twenty-four-hour care for young children.

The Inadequacy of BIA Boarding Schools as Child Welfare Service Agencies. BIA boarding schools are a major traditional resource for the out-of-home placement of Indian children, including children from families which are having problems and children whose own problems cannot be handled by their parents or within their own communities. Placements in BIA boarding schools are handled by BIA social workers, and a majority of placements (an average of 67 percent at the fifteen boarding schools responding to this survey) are made for social rather than educational reasons.

Children are often placed in boarding schools because group homes, foster homes, emergency care facilities, and programs to provide counseling and other social services to children and families are lacking on reservations. Thus, BIA boarding

schools are the only resource available to many parents whose children have problems. However, findings from this project and other studies show that boarding schools also lack adequate counseling and guidance staff and that they have few programs for children with social or behavioral difficulties.[18]

More disturbing is the fact that many BIA boarding schools insist that they are purely educational institutions and refuse to recognize that they are an important part of the child welfare service system. Of the fifteen boarding schools responding to CSRD's survey, six said that they saw no need to make any changes in their programs, even though five of these schools did not have programs to deal with social or behavioral problems.

Conclusion

Many people assume that the provision of child welfare services to Indians is the responsibility of the Bureau of Indian Affairs. This is emphatically not the case. State and county social service agencies are responsible for providing child welfare services to Indians as well as to other residents, even though in practice several states have been reluctant to extend services to reservations because of a number of factors. The very real legal and jurisdictional barriers to the delivery of state services to reservations which exercise extensive powers of self-government have been significant in this respect.

However, there are numerous other barriers to the full provision of services to Indian children and their families, including a failure to understand tribal cultures; a failure to recognize the special legal and cultural factors that arise in providing services to Indians; the relatively low level of Indian involvement in child welfare matters as foster and adoptive parents, as administrators and staff, or as members of advisory boards; and barriers to the operation of programs by tribal governments and other Indian-run agencies under contract from states or the BIA.

Extraordinarily large numbers of Indian children have been removed from their homes and placed with non-Indian families by child welfare workers. Since the early 1960s the federal government has supported Indian self-determination, but for long periods in the past assimilation was the avowed federal policy. Child welfare services assisted this policy by applying non-Indian norms and standards to the delivery of services and by encouraging the placement of Indian

children in non-Indian homes. The condemnation of off-reservation placements by many tribes and the development of child welfare programs which are operated by tribal governments and other Indian-run organizations seem to have reduced the number of off-reservation placements, but in many agencies the assimilationist practices continue.

The most important need in the area of child welfare services is to further involve tribal governments and other Indian organizations in the planning and delivery of child welfare services. It is necessary that preventive services be expanded; that BIA boarding schools recognize that they are part of the child welfare service system and that they should be staffed accordingly or be replaced by programs within the community; and that increased efforts be made to recruit Indian foster and adoptive homes.

POLICY IMPLICATIONS

Federal, tribal, and state policies and the programs of private child welfare agencies should aim at the achievement of four major policy goals:

1. Increased involvement by tribal governments and other Indian organizations in the planning and delivery of child welfare-related social services

2. More study and recognition of inconsistencies between Indian tribal cultures and current child welfare service techniques, standards, and goals

3. Placements of Indian children in Indian adoptive and foster homes

4. The commitment of resources to meet the unmet needs of Indian families and children

The Operation of Child Welfare Programs by Tribes and Other Indian Organizations

The key element of an Indian child welfare policy must be a vigorous effort to increase the planning and delivery of child welfare and child welfare-related social services by tribal governments and other Indian organizations. Events are already moving in that direction. Over the past ten years, tribes and Indian-controlled organizations in non-reservation areas have written contracts and received grants for the operation of many federally supported human service programs. The federal policy of Indian self-determination recognizes the self-governing status of tribal governments and supports the trend toward tribally operated programs. Tribal child welfare programs have lagged behind other human service programs, but our research data show widespread support by tribal, federal, state, and county officials for the operation of child welfare programs by tribes and other Indian organizations.

Building Tribal Capacity in Child Welfare Services. To support the development of tribal programs in the child welfare area, a commitment of special resources and energies will be required to deal with certain barriers and problem areas. One such need is for funding to support a period of system design, needs assessment, and planning. Self-determination will not become a reality until tribes have fully developed their capabilities, and these capabilities will grow slowly unless funds are provided to build them.

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Many of the Department of Health, Education, and Welfare (DHEW) funding sources in the child welfare area are tied to the provision of specific services designated in legislation and are not usually available for designing and establishing a range of services. For example, Head Start funds are used by most tribes, but they are tied to the operation of ongoing services. Purchase-of-service contracts, the mechanism by which states distribute their Title XX funds to other agencies, usually cover the provision of services to clients rather than the early planning phases of program development. They often give little latitude to the service provider in designing approaches to the delivery of services, since they call for specific services to meet a state plan and to operate under state definitions and standards. The spirit of purchase-of-service contracts is quite different from the spirit of self-determination.

The federal government should make an explicit commitment to a program to provide capacity-building funds to tribal governments and other Indian organizations as a basis for Indian operation of child welfare services and child welfare-related programs. Some limited funds are already available for this purpose. One of the missions of the Office of Native American Programs is to build the capabilities of tribal governments and nonreservation Indian organizations. However, ONAP is interested in a variety of program areas, and few of its grantees have given special attention to child welfare. Similarly, in FY 1976 the BIA had $10.7 million budgeted for self-determination services which had to be divided among a variety of program areas, including economic development and resource management, as well as human services.[19]

ONAP and the BIA, together with SRS and OCD (which have mandates to work in the area of child welfare), might support programs of tribal capacity-building for child welfare. A first step in such a program might be an effort to work with several tribes and Indian organizations to develop and evaluate a range of possible models for Indian child welfare service systems. These models might test a variety of relationships with state child welfare agencies and institutions, different ways of combining BIA, federal, and possibly state funding in a comprehensive program of services that meets the special needs of an Indian community, and arrangements for small tribes to share in the operation of a common service program, possibly through an intertribal council.

Another important step would be the establishment of a clearinghouse and communications network for these programs. The clearinghouse could provide information to tribes and Indian groups about the development of Indian child welfare programs, and it could act as an advocate for these programs, prepare training materials and curricula, and provide technical assistance and consultation to tribal and other Indian-run child welfare programs.

BIA contracts with state governments should be reexamined. Currently, the BIA reimburses many states for the costs of institutional care and reimburses seven states for the costs of foster care and group care for non-AFDC children. However, since 30 July 1975, Title IV-B has required that states provide foster care and other IV-B services for non-AFDC children on a statewide basis. SRS has not moved to enforce the statewideness provision, perhaps because federal IV-B funds are such a small part of most states' child welfare budgets. However, the state of Minnesota has agreed that it has the responsibility for paying the costs of all non-AFDC foster care, and the BIA contract is being phased out over several years. In its place, the BIA has begun to contract for child welfare services with the Minnesota Chippewa tribes. Efforts by SRS to enforce the statewideness provision of IV-B, combined with a withdrawal of BIA-state contracts, would eliminate this discrepancy between BIA policy and the Social Security Act and would yield some limited funds for tribal capacity-building.

Secondly, there are problems involved in developing strong administrative structures within tribal governments. Unlike federal and state governments, tribal governments generally do not consist of separate legislative, executive, and judicial branches working with a fourth branch of agency bureaucracies. In many tribal governments, mechanisms are needed to insulate the administrative process from the legislative and political processes. Many tribal governments are still developing the "administrative technology" necessary to the smooth operation of programs, such as established personnel systems, benefit and security packages for tribal employees, accounting systems, planning and budgeting systems, and so forth.

Thirdly, there are problems because of a lack of trained Indian manpower. In the short run some tribes have been successful in building impressive programs by hiring non-Indians for key administrative and technical positions. However, for self-determination to work in the long run, Indian staff must work alongside non-Indian staff and must be trained to move into their jobs when they leave. Otherwise tribal governments will continue to need outside assistance to manage their programs.

Partly because of aggressive programs to recruit and support Indian students at the undergraduate and graduate levels,[20] Indian social workers, lawyers, and other professionals have increased substantially in number, although the number of Indians is still not adequate to meet needs. Efforts to recruit Indian students and expanded federal funding for professional training programs for Indians continue to be necessary. Efforts are also needed to attract newly trained Indian professionals for tribal government jobs. The development of stable administrative structures and support services will make tribal governments more attractive places for these professionals to work.

A fourth problem concerns the willingness of federal and state officials to allow tribal governments to experiment with new conceptualizations of service needs and new methods of service delivery, some of which may prove effective in the context of tribal cultures and some of which may fail disastrously. The freedom to make mistakes is the essence of self-determination; the denial of this freedom is a continuation of paternalism.

Tribal Courts. Few tribal judges are trained lawyers, and many tribal codes do not contain sections on juvenile matters. However, the number of Indian lawyers is increasing rapidly, and a Model Children's Code has recently been prepared by the American Indian Law Center at the University of New Mexico, with support from the National American Indian Court Judges Association. The Model Code includes provisions for tribal approval of foster homes and other facilities for the care of juveniles, definitions of "minor-in-need-of-care" and "abandoned children," procedures for the termination of parental rights, and numerous other materials.[21] Over the next few years tribes will be considering whether to adopt or modify the Model Code for use in their courts.

In addition, the Bureau of Indian Affairs is supporting a training program in child welfare matters, run by the National American Indian Court Judges Association. In FY 1977, the American Indian Law Center will be funded by the National Center on Child Abuse and Neglect of OCD to provide technical assistance to tribal courts as they develop their tribal codes and procedures in the area of child abuse and neglect. Continued support for such programs is necessary.

Another important issue is whether state courts, state institutions, and state/county welfare departments recognize tribal court orders. Since most reservations have very limited facilities for the care of delinquent youth and children with special needs, access to off-reservation

institutions is essential. As a result of a 1974 Montana Supreme Court decision (Black Wolf v. District Court), the procedures for tribal court commitments to state institutions for juveniles collapsed, and all incarcerated juveniles from reservations were released. Recent state legislation attempts to reestablish a mechanism for tribal court commitments to these institutions by permitting tribes to contract for services with the institutions, while the tribes or the BIA reimburse the state for the cost of institutional care. No such contracts have yet been written.

In some states these problems have not arisen because state courts give "full faith and credit" to tribal court orders, as they would to orders of courts from other states. Although there is substantial case law which indicates that tribal court orders are entitled to full faith and credit, the U.S. Supreme Court has not ruled directly on this point. In the absence of such a ruling or of definitive federal legislation, each state must decide through its courts or through its legislature what recognition to grant to orders of tribal courts.[22]

In 1970, SRS instructed state child welfare agencies that they must work with tribal courts (where they have jurisdiction) in cases involving reservation Indians. Our research findings indicate that state/county agencies do not always notify tribal courts when placement arrangements are being made for reservation cases. SRS could investigate this problem and take additional steps to assure recognition of tribal courts, including compliance hearings if necessary.

Direct Funding to Tribes for the Operation of Child Welfare Programs. At present, federal funds for the support of child welfare services flow to states under Titles IV-B and XX of the Social Security Act. A basic policy choice must be made. Either states should be encouraged to pass some portion of these funds on to tribes and other Indian organizations, or the Social Security Act should be amended to permit SRS to fund Indian programs directly, thus bypassing state agencies.

A previous CSRD study found widespread approval for direct funding. Over sixty state, county, tribal, and BIA officials in eight states and on ten reservations were interviewed about legal and jurisdictional problems in the delivery of SRS child welfare services on reservations and about possible policy alternatives for resolving these problems. At the conclusion of the interviews, they were asked to choose the best and worst alternatives from a list of eleven

options (see table 1). In all categories of respondents, the majority agreed that the worst alternative was the current structure. All responding state officials, two-thirds of the county respondents, 85 percent of the BIA respondents, and 90 percent of the tribal respondents preferred a system where tribes would be the major social service providers on reservations. State and county respondents were evenly divided between those who preferred tribal operation of services under contract from state agencies and those who preferred a direct federal-tribal relationship. Tribal officials were evenly divided between those who wanted a direct BIA-tribal contracting relationship and those who preferred a direct SRS-tribal funding channel. BIA officials who preferred tribal contracting unanimously opted for direct SRS-tribal funding.[23] Although these responses do not constitute a representative sample, they do suggest that there is surprisingly wide support for direct SRS-tribal funding, even among state and county officials who would be losing their responsibilities for social service programs on reservations.

There are five major arguments in favor of direct funding: (1) there is a strong constitutional, legal, and historical basis for direct federal-tribal relationships; (2) there are precedents for direct funding in CETA, community action programs, and other federal programs; (3) because states lack jurisdiction on many reservations, there are many barriers to large-scale state-tribal contracting or to direct provision of services on reservations by state and county personnel; (4) there is substantial evidence that many states have consistently resisted providing services to Indians on an equal basis and that most states have declined to consider the special problems of providing child welfare services to Indian families and children; and (5) direct funding would permit tribal governments to fashion service programs free of the constraints of state definitions and procedures and would allow them to be more responsive to the special needs of Indian communities. Since it is beyond the scope of this report to present these arguments in detail, DHEW should consider supporting an effort to define the issues relating to direct funding and also should consider drafting legislation to implement direct funding.

One question that should be considered carefully is what programs should be funded directly. Many of the same arguments for direct funding of child welfare services could apply to direct funding of other human service programs. Also, it might be difficult to separate child welfare services from other programs. For example, it would be difficult to separate AFDC-FC from the remainder of the

TABLE 1

SERVICE DELIVERY ALTERNATIVES FOR
ON-RESERVATION INDIAN CHILDREN
AND FAMILIES

Federal-State Systems	1. Deliver services through regular federal-state system with current funding patterns 2. Deliver services through regular federal-state system with increased funds through tribal participation in funding 3. Deliver services through regular federal-state system with additional federal share in funding for on-reservation Indians
Federal-Tribal Systems	4. Direct funding to individual tribes from SRS so that tribes might provide their own services or contract to have the services provided 5. Direct funding to individual tribes from BIA so that tribes might provide their own services or contract to have the services provided 6. Direct funding from SRS to statewide intertribal agencies to provide services to Indian residents of reservations 7. Direct funding from BIA to statewide intertribal agencies to provide services to Indian residents of reservations
Federal Systems	8. Federally operated in-house SRS programs for tribes (e.g., Indian Health Service within the U.S. Public Health Service) 9. Increased funding to the BIA and expanded BIA social service programs within the current BIA structure
Federal-State-Tribal Systems	10. Current federal-state funding patterns but state contracts with tribe to provide services for on-reservation tribal members 11. Increased federal share in funding to state and state contracts with tribe to provide services for tribal members on reservations 12. Other (specify)

AFDC program or to divide Title XX into services for children and services for adults. Therefore, it is important to inventory the federal human service programs which are now serving Indians and to identify federal-state programs which could be funded directly.

A second issue would be the nature of the relationship between tribal and state governments after direct funding was implemented. Institutions, Title IV-B programs, and many services for children with special needs are supported primarily by state funds with very little federal support. Since Indians are citizens of the states in which they live, whether or not they live on reservations, presumably states would have a responsibility for providing these services on reservations. The details of how Indian children would be referred for services and how payments would be handled should be explored. Alaska and Oklahoma would need special attention, since substantial numbers of Native Americans do not live on reservations in these states. A careful study of the legal and jurisdictional responsibilities of state and tribal governments and Alaska Native organizations in these states would be required.

A third question would arise over the relationship between BIA social services and HEW social services, since coordination of BIA and HEW funding requirements would be necessary in order to permit tribes to use combined funds in a single service program.

Perhaps the most difficult issue would be whether direct funding should be limited to federally recognized Indian tribes, at least at first, or extended to off-reservation Indian groups, such as Indian centers. ONAP and CETA both fund off-reservation groups directly.

In conclusion, the capacity-building program described above is essential if direct funding is to succeed. It will certainly take time to work out answers to the questions raised here and for Congress to consider fully the question of whether direct funding should be enacted. This time should be used to build tribal management and planning capabilities.

Programs Under the Federal-State System

A policy of improving and expanding the operation of child welfare service programs by tribes and Indian organizations within the current federal-state system raises at least as many difficult problems as direct funding. If Congress

fails to enact direct funding, these problems must be confronted. For example, since states cannot sue tribes to recover funds spent in violation of the terms of a purchase-of-services contract, some means must be devised for handling problems arising from state-tribal contracts. Perhaps the federal government could deal directly with tribal governments in cases of audit exceptions. Whether the solution to such contracting problems would require new federal legislation would have to be explored.

Other problems would arise if states were encouraged or required to devote more of their Title IV-B and Title XX resources to serving Indians and if they were required to write contracts with tribes and Indian organizations. In the past many states have been reluctant to provide child welfare and other social services to Indians on reservations. In some cases, this reluctance may amount to a pattern of discrimination which could be the basis for legal action. Rather than taking legal action, SRS could investigate the extent to which states have complied with the program instruction of 30 December 1974, which requires states to work with tribal courts in all cases involving reservation children and which encourages states to adopt special licensing standards for Indian day care and foster homes.[24] SRS might require that states specify in their Title XX state plans how Indians will be served. In this way states might be required to set aside a certain portion of their Title XX funds for services to Indians without the implementation of additional legislation.

Several measures could facilitate Indian participation in the Title XX planning process. For example, boundary lines of counties and substate districts could be revised so that they would not cut across reservations. Special programs could also be funded to train tribal officials and non-reservation Indian leaders to participate more actively in Title XX planning.

The Indian Desk in the state of Washington's Department of Social and Health Services is a good model for states that wish to serve their Indian citizens more effectively. Over the last three years this desk has succeeded in raising the consciousness of state, tribal, and urban Indian leaders about Indian child welfare issues. It has also made several constructive changes in regulations, procedures, employment of Indian staff, and delivery of services.

Adoptive and Foster Care Placements of Indian Children

Most child welfare professionals feel that when an Indian child must be placed out of his own home it is most desirable for him to be placed with an Indian family, preferably a family from his own tribe. The prospects of achieving this goal are being improved by two related developments: (1) increased involvement by tribes and by Indian-run child welfare agencies in adoption and foster care cases, and (2) increased efforts on the part of many service providers to place Indian children in Indian homes. Policies concerning adoption and foster care placements should be targeted at strengthening these developments.

Involvement of Indian Agencies in Adoption and Foster Care. As tribes and other Indian organizations develop general child welfare service systems, it is important that they also develop specific programs in the areas of foster care and adoptions. There are already several examples of such programs. The Yakima Nation operates Project Ku nak we sha', which is licensed to place children within the state of Washington, the Seattle Indian Center is licensed as a child-placing agency, and the Native American Family and Children's Service of Minneapolis will be licensed once it receives additional funding. Because of the attention that has been given to the problem of placements in non-Indian homes, a special effort by tribal, federal, state, and private agencies to set aside funds for licensed Indian-run child-placing agencies should be considered.

The number of Indian children taken from their parents might be reduced by advocacy services for parents. Evidence from field research suggests that there is often misunderstanding between parents in this difficult situation and child welfare agencies. Many agencies reported problems of communication with Indian clients, mistrust of agencies by Indians, and inadequate understanding by agency personnel of tribal cultures, family organization, and child-rearing patterns. In Chicago, four families being interviewed about their experiences in dealing with the welfare department volunteered the information that they never told social workers of family problems because of their fear that the social workers would take their children away. Organizations like welfare rights committees can have a positive influence on increasing communication between agencies and clients.

Indian child welfare advocates could also be effective in avoiding abuses and misunderstandings between Indian families and agency social workers by providing counseling and referral services to families and informing them of their rights in dealing with welfare agencies and with the courts. The

experiences of the Native American Family and Children's Service in Minneapolis show that state court judges are willing to respect lay advocates' understanding of the circumstances surrounding cases and may often follow advocates' guidance in seeking alternatives to termination of parental rights. Once established in Indian communities, these advocacy programs can become the nuclei for the development of Indian-staffed and Indian-controlled licensed child-placement agencies.

In view of the existence of Indian-run child-placing agencies, the Bureau of Indian Affairs should consider terminating its contract with the Child Welfare League of America for the operation of the Adoption Resource Exchange of North America. The placement record of ARENA does not show that it is now placing Canadian and American Indian children with families that can make a legitimate claim to be Indians. Furthermore, the ARENA record of placing only fifteen American Indian children a year since 1972 should raise questions about the value received for the BIA's annual expense of $30,800.[25] These funds might be better used in the support of an additional Indian-run child-placing agency or the establishing of a national Indian-operated organization which could provide technical assistance, training, and information for existing and new Indian-run child-placing agencies. To the extent that there is a valid need for intertribal, interstate, or international adoptions of Indian children, Indian-run agencies can arrange such adoptions either by working directly with each other or by participating on the same basis as other member agencies of the Child Welfare League's North American Center on Adoptions.

In those cases where Indian children are being placed by non-Indian agencies, Indian homes or alternatives to out-of-home placements are more likely to be found when tribal governments and off-reservation Indian organizations are involved in the placement process. Evidence gathered from field research suggests that many local agencies are not observing recent SRS program instructions which require the involvement of tribal courts in placements of reservation children. Investigation of this evidence and enforcement of these instructions would be appropriate. An additional forward step would be a requirement in federal and/or state regulations that officials or staff of tribal governments or of Indian agencies in off-reservation areas be contacted prior to the placement of Indian children. An overwhelming majority of respondents to CSRD's survey favored such a policy. In its state regulations, Washington has recognized that Indian children should be placed in Indian homes when-

ever possible and has provided specific procedures to insure that public and private child-placing agencies look for Indian families before placing Indian children with non-Indian parents. Other states could adopt similar regulations, and HEW could use its considerable powers of persuasion and regulation to urge states in this direction.

Perhaps the most difficult problem is the question of what if anything should be done about Indian children who have already been adopted by non-Indian parents or who have been in long-term foster placements with non-Indian families. A joint review of each long-term foster placement by the appropriate tribe, BIA agency, and state would be an expensive but effective means of insuring that these children are enabled to maintain contact with their tribes or are returned to them if this would be in their best interests. Many tribes have already had to deal with adoptive parents who are seeking Indian scholarships and per capita payments for their adopted Indian children and with Indian children who return to their reservations to seek their tribal identities. In some cases special programs for children who are caught between two cultures may be necessary.

Efforts to Place Indian Children in Indian Homes. It has been demonstrated in many places that tribes, Indian-run agencies, counties, BIA agencies, and private agencies can recruit Indian adoptive and foster parents by hard work at the local level. Continued efforts in this direction are essential.

It is also important to remove barriers to the recruitment and licensing of Indian foster and adoptive families. One such barrier is licensing standards, which are often inappropriate for Indian communities. On reservations not subject to PL 280, it is the responsibility of tribal governments to develop and enforce appropriate standards. In other areas, state standards are in force. SRS has taken a strong position favoring special standards for Indians and has suggested that such standards might be required in some circumstances.[26] But few states and fewer county offices reported that they use any special standards for Indian families. It would be appropriate for states to increase their efforts to comply with the SRS policy and for SRS to investigate the situation and take necessary enforcement steps.

A second compliance issue arises over whether relatives can receive AFDC-FC payments. A 1974 SRS program instruction stated that relatives should receive such payments, which

are usually higher than the usual AFDC allotment for an additional child, and cited several court decisions in support of this position.[27] Data from this study show that few states and fewer local agencies are abiding by this policy.

A program of subsidized adoptions could also be effective in increasing the number of Indian families who can afford to adopt a child. Where subsidies are not available, it may be preferable to leave a child in a long-term foster placement with an Indian family rather than let him be adopted by a non-Indian family which lives off the reservation.

The L.D.S. Indian Student Placement Program. The Indian Student Placement Program of the Church of Jesus Christ of Latter-day Saints is responsible for a substantial fraction of all placements of Indian children in non-Indian homes. Although this program uses the foster care mechanism, it also has educational and religious goals. While there has been no systemmatic evaluation of this program, the information contained in two studies which have been done raises some serious questions about its effect on the cultural identity and emotional well-being of the participants.[28]

Therefore, tribal governments may wish to reconsider the desirability of recruitment of tribal children by the program. Although no federal funds are expended in support of this program, Congress did pass legislation allowing foster families participating in the program to take an income-tax deduction, and it may wish to reexamine this action.[29]

Tribal Cultures and Indian Child Welfare

Ignorance of tribal cultures, especially of such matters as the importance of the extended family and clan systems and of tribal child-rearing practices and norms, have too often resulted in situations where the delivery of child welfare services weakens rather than strengthens Indian families and alienates Indian children from their tribal cultures. The social work profession, tribal governments, and the federal government should all give special attention to the implications of tribal culture for the delivery of child welfare services.

Although this project did not include a study of tribal family structures and child-rearing practices and their implications for child welfare services, such a study is needed. It should give proper attention to the substantial

differences among tribal cultures and to the fact that tribal cultures are dynamic and can act as changing forces in people's lives. Such a study would provide a valuable basis for the design of curricula focusing on tribal cultures and their implications for the operation of human service programs. No such curricula currently exist, even at the nine schools of social work that have made major commitments to recruit Indian graduate students and hire Indian faculty.[30] It is essential that all social workers who may need to deal with Indian families and their children should be knowledgeable about tribal cultures.

Tribal governments must also give their attention to the relationship of tribal cultures to child welfare services. In many cases, tribal governments are fully occupied with such matters as economic development, natural resources, employment, and the broad range of tribal programs. However, as tribes build social service programs and become major providers of child welfare services, they will have to define acceptable standards of behavior in such matters as child abuse and neglect and in the area of extended family and biological parental responsibility towards children.

One of the goals of the Social Security Act is the preservation and strengthening of the family, and Indian family structures include members of the extended as well as the nuclear family. HEW could provide valuable leadership to child welfare agencies and staff by explicitly recognizing in regulations and policy statements that the goals of the Social Security Act are to be interpreted as applying to the extended family system.

Unmet Needs

Because of many legal, political, and administrative problems, child welfare services are often not available to Indian children and families who need them. When services are available, they may be inappropriate to the particular needs of Indian communities. Thus, it is essential that appropriate services be made available and that there be substantial Indian involvement in the administration and delivery of services.

Federal requirements (and state requirements, where they are relevant) must be flexible enough to allow the delivery of services which are needed by Indian families and children. In the area of child welfare, preventive programs which strengthen family and community institutions and provide employment, recreation, cultural enrichment, and other

meaningful activities for children and families are a major need. Also needed are programs which are specifically aimed at combating family disorganization.

Group homes and emergency shelters for youth and twenty-four-hour temporary shelters for young children are also necessary. At present, BIA boarding schools are widely used to place Indian children with family or social problems because no similar resource is available on reservations. Boarding schools must recognize that they are an important part of the child welfare as well as the educational system. Because of this dual role, their counseling and guidance staff and their programs for children with emotional or behavioral problems must be substantially strengthened. Placement programs should also be developed in Indian communities, while programs to provide services to children who return to their homes from boarding schools are also needed.

Summary

Federal policies should support the planning, management, and delivery of child welfare services by tribal governments and by Indian organizations off reservations. There is widespread support for an amendment to the Social Security Act to permit direct funding of tribal programs under Titles IV-B and XX, and there are strong historical and legal, as well as practical, arguments for such legislation. The alternative is to find ways--through new legislation, the enforcement of existing federal law, and federal leadership--to encourage and require that states provide child welfare services to Indians without discrimination and with respect for tribal cultures and that states contract with tribes for the delivery of services. Programs to build the capacities of tribal governments and other Indian-run organizations in the field of child welfare are essential, whether the direct funding alternative or the federal-state-tribal alternative is chosen. Specific areas for policy change and the means by which changes might be made are listed below:

I. Operation of Programs by Tribal Governments and Indian Organizations

A. Federal Support for a Variety of Capacity-Building Activities

1. A series of federally supported projects to develop and evaluate a variety of

models for the operation of child welfare services by tribes, intertribal councils, and other Indian organizations

2. Capacity-building grants focused on strengthening the planning and management capabilities of tribal governments and Indian organizations in the area of child welfare and child welfare-related services

3. Establishment of a national clearinghouse for Indian child welfare issues: to provide technical assistance and information to tribal and off-reservation programs, to prepare training materials and curricula, to monitor the development of Indian child welfare programs and supportive federal policies, and to define additional issue areas

4. Adjustment of requirements in contracts with tribes and Indian organizations to allow more flexibility in designing and operating programs which are responsive to cultural differences and to the special needs of Indian communities

B. Tribal Courts and Tribal Codes

1. Continued support for the development of juvenile codes by tribal governments

2. Federal (or state) legislation requiring that state courts and state agencies give full faith and credit to tribal court orders

3. Investigation by SRS of whether state agencies are contacting tribal courts in cases involving reservation Indian children, as required by recent program instructions; enforcement as required

C. Direct Funding.

1. Detailed analysis of means to permit direct funding of Title IV-B and Title XX programs--and possibly other social service and financial assistance programs--by HEW directly to tribal governments

a. Inventory HEW programs and identify programs for possible direct funding

b. Analysis of precedents for direct funding and of possible funding mechanisms

c. Define possible funding levels and implementation plans

d. Prepare draft federal legislation permitting direct funding

2. Analysis of direct funding mechanisms applicable to Oklahoma and Alaska based upon a study of legal and jurisdictional responsibilities of tribal governments in Oklahoma and in Alaska Native corporations and associations

3. Analysis of direct funding mechanisms applicable to urban areas and other off-reservation areas

4. Analysis of possible relationships between programs operated by tribes and Indian organizations with direct federal funding and programs which are operated and financed by the states, such as state institutions

5. Joint planning by HEW, BIA, and tribes to coordinate social service program requirements to facilitate use of these funds for comprehensive local programs

D. As an Alternative to Direct Funding, Support Operation of Programs by Tribes and Indian Organizations Within the Present Federal-State Structure

1. Analysis of legal, financial, and other barriers to state-tribal contracting; design of legislation or other means to overcome barriers

2. HEW action to enforce statewideness provisions of Title IV-B and to insure nondiscrimination in allocation of Title XX resources, possibly including

specific requirements that states set aside a certain fraction of their Title XX funds for services to Indians

3. Revision of boundary lines of counties and substate districts to conform to reservation boundaries

4. Establishment by state agencies of in-house Indian advocacy desks, modeled on the Washington Indian Desk

II. Adoptive and Foster Care Placements of Indian Children

A. Increased Involvement by Tribal Governments and Indian-Run Agencies in Placements

1. Funding to support the further development of existing Indian-run child welfare programs and establishment of more Indian-run licensed child-placement agencies to permit licensing of these programs as child-placing agencies

2. Support for Indian child welfare advocate programs, with career ladders leading to professional training for staff advocates

3. Replacement of the BIA contract for the ARENA project by a contract with an Indian-run agency to provide interstate placements where necessary and to provide technical assistance for the development of Indian-run child placing agencies

4. Requirement by state regulations that officials or staff of tribes or of off-reservation Indian organizations be notified prior to the placement of Indian children in foster or adoptive homes

5. Enforcement by SRS of the requirement that state or county agencies notify tribal courts of all cases involving tribal children; clarification of the

1974 program instruction to specify that this applies to cases where tribal children are temporarily off reservations, as well as to children on reservations

B. Increased Efforts to Place Children with Indian Families

1. Increased efforts at the local level to recruit Indian foster and adoptive families

2. The drafting of special standards for Indian foster and adoptive homes; on reservations where tribes have jurisdiction to approve or license homes, tribes should draft standards; elsewhere, states should work with tribes and Indian organizations in drafting such standards

3. Enforcement by SRS of the 1974 program instruction regarding standards for Indian foster and day care homes

4. Explicit recognition in federal and state regulations of the desirability of placing Indian children in Indian homes, preferably with a family from their own or a related tribe. Regulations of the Washington Department of Social and Health Services are a possible model

5. Expanded subsidized adoption programs

6. Joint review by BIA, states, and tribes of all cases of Indian children in long-term foster care; formulation of plans to return Indian children from non-Indian homes to their tribes where such action is appropriate

C. L.D.S. Indian Student Placement Program

1. Review by affected tribes of their participation in this program

2. Review by Congress of tax exemptions granted to foster parents in this program

III. Tribal Cultures and Child Welfare Services

A. Research to Define the Implications for Child Welfare Services of Features of Several Tribal Cultures, Including Child-Rearing Practices and Family Structures

B. Development of Curricula for Schools of Social Work on Indian Tribal Cultures and Their Implications for the Operation of Social Service and Other Human Service Programs

C. Definition by Tribal Governments of Standards of Acceptable Behavior in Child-Related Matters; Inclusion of These Standards in Tribal Ordinances and Tribal Codes, as Appropriate

D. Federal Regulations Stating that the Goals of the Social Security Act Should be Interpreted in Indian Child Welfare Matters to Encompass the Preservation and Strengthening of Family Structures, Including the Extended Family

IV. Preventive and Supportive Services

A. Things for Children and Youth to Do--Jobs and Vocational Training Programs, Recreational Facilities and Programs, Cultural Programs, and Community Activities. Youth Workers and Programs, Like Those of the Traditional Settlement House, Are Needed

B. Flexibility in Federal-Tribal or State-Tribal Contracts to Permit Tribes to Use Funds to Support the Programs Listed Above, As Well As More Traditional Social Service Programs

C. Programs to Deal with Family Problems and with the Weakening of Traditional Family Structures

D. Group Homes and Emergency Shelters for Youth

E. Temporary Twenty-Four-Hour Child Care Programs

V. Boarding Schools

A. Recognition by BIA Boarding Schools that a Primary Part of Their Mission is to Provide Services to Children with Family and Behavioral Problems

B. More Professionally Trained Counseling and Guidance Staff at Boarding Schools; In-Service Training for Current Professional Staff

C. On-Reservation Alternatives to Boarding Schools, Such as Group Homes, Preventive Programs, and Youth Workers

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